

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff-Respondent,)	
vs.)	NO. CR-14-00280-001-M
)	NO. CIV-17-0207-M
DONOVAN GENE MERCER,)	
)	
Defendant-Movant.)	

ORDER

On October 25, 2018, defendant-movant Donovan Gene Mercer (“Mercer”) filed a Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees. Although 28 U.S.C. § 1915(b) does not apply to habeas actions, *see McIntosh v. United States Parole Comm’n*, 115 F.3d 809, 811 (10th Cir. 1997) (finding Prison Litigation Reform Act inapplicable to habeas and § 2255 actions and appeals), both § 1915(a)(1) and (a)(3) do apply to a habeas appeal. Accordingly, Mercer must show that the appeal is taken in good faith and that he lacks the financial ability to pay the required fees. *See id.* at 812.

Having reviewed the motion and the record, the Court concludes that Mercer has shown that his appeal is taken in good faith and that he lacks the financial ability to pay the required fees. Accordingly, Mercer’s Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees [docket no. 175 in case no. CR-14-280-M] is **GRANTED**.

IT IS SO ORDERED.

Dated this 29th day of November, 2018.



JOE HEATON
CHIEF U.S. DISTRICT JUDGE